IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE

Writ Petition No. 2370 of 2006

Ratanlal Shivlal Shah ..Petitioner

vs.

1.Yuvraj Gangaram Kalubarme
and others ..Respondents

Shri S.G.Deshmukh for petitioner
Shri G.S.Godbole i/b Shri Surel S.Shah for respondent nos. 1 and 2.

CORAM: S.B.MHASE J.
7th April, 2006

P.C.

1. Heard both the learned Counsel. The order dated 23rd March, 2006 passed by the Asstt.Charity Commissioner under sec.41A of the Bombay Public Trust Act is under challenge. By the said order election of the Trust was directed by appointing the Election Officer. The learned Counsel for the petitioner submitted that the notice of the application under sec.41A was served on the Ex President and the order was obtained from the Asstt.Charity Commissioner when the petitioners are actually the trustees of the said Trust. It appears that there were directions given by the IInd Additional District Judge, Pandharpur on 24th November, 2004 in Misc.Application No.26 of 1998 to hold the elections of the said Trust and in accordance with that elections were conducted and new Board of Trustees was elected on 11th August, 1996. The duration of that Board was of 3 years. Thereafter no elections were held. It appears that after passing of the

impugned order the change report has been filed by the petitioners to show that new Board of Trustees has been appointed with effect from 5th December, 2004. The said change report appears to have been submitted on 1st April, 2006. Today, the learned Counsel Shri Godbole produces the certified copy of the said change report. It reveals from the said change report that along with the said change report no document in respect of holding of the election etc.have been produced. Surprisingly, it is also brought to the notice of this Court that this change report is having the court fee stamp of 3rd April, 2006 when the application is presented on 1st April, 2006. This cannot be reconciled. From the conduct of the petitioners, it also appears that there is some foul play in respect of the trustees being elected and record of the Trust. It appears that the parties are trying to hold election behind and back of the members of the Trust land no transparent elections are being conducted. Under these circumstances, viewed from this angle, it reveals that the term of office of the members is over and the elections are very much due and new Board of Trustees is required to be elected. Therefore, the order given by the Charity Commissioner directing to hold the election in all circumstances appears to be a proper one. No interference is called for. Petition is dismissed.

(S.B.MHASE J.)